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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,711	09/25/2003	Tetsuya Shimada	088473-0148	6374

22428 7590 09/08/2006

FOLEY AND LARDNER LLP  
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WASHINGTON, DC 20007

EXAMINER
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LE, DAVID D

ART UNIT	PAPER NUMBER
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3681

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Interview Summary</b>	Application No. 10/669,711	Applicant(s) SHIMADA ET AL.	
	Examiner David D. Le	Art Unit 3681	

All participants (applicant, applicant's representative, PTO personnel):

(1) David D. Le. (3)\_\_\_\_\_.

(2) Frederic T. Tenney. (4)\_\_\_\_\_.

Date of Interview: 31 August 2006.

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.  
If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 1 and 11.

Identification of prior art discussed: U. S. Patent No. 5,199,399 to Shibuya.

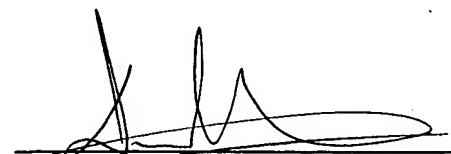
Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: The proposed claims 1 and 11 appear to overcome the applied reference.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

  
 Examiner's signature, if required

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

#### Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.



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## FACSIMILE TRANSMISSION

Total # of Pages **10** (including this page)

TO:	PHONE #:	FAX #:
Examiner David D. LE UNITED STATES PATENT & TRADEMARK OFFICE	571-272-7092	571-273-7092

From: Frederic T. Tenney  
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Date: August 29, 2006  
U.S. Patent Application No. 10/669,711  
Attorney Docket No.: 088473-0148  
User ID No.: 0903

### MESSAGE:

Examiner Le,

Attached you will find our DRAFT response to the June 6, 2006 Office Action. I look forward to discussing our response with you this Friday, September 1, 2006 at 11:00 am.

Thanks so much

Frederic T. Tenney

If there are any problems with this transmission or if you have not received all of the pages, please call 202.672.5517.

Operator:	Time Sent:	Return Original To: Frederic T. Tenney
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Cover Page 1 of 1

Attorney Docket No. 088473-0148

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**Applicant: Tetsuya SHIMADA *et al.*Title: CONTROL APPARATUS AND METHOD FOR AUTOMOTIVE  
VEHICLE IN WHICH A BELT-TYPE CONTINUOUSLY VARIABLE  
TRANSMISSION IS EQUIPPED WITH A BELT SLIP PREVENTIVE  
FEATURE

Appl. No.: 10/669,711

Filing Date: September 25, 2003

Examiner: David D. LE

Art Unit: 3681

**AMENDMENT AND REPLY UNDER 37 C.F.R. § 1.111**Mail Stop Amendment  
Commissioner for Patents  
PO Box 1450  
Alexandria, Virginia 22313-1450

Sir:

This communication is responsive to the Non-Final Office Action dated June 6, 2006, concerning the above-captioned patent application.

Amendments to the Claims are reflected in the listing of claims that begins on page 2 of this document.

Remarks begin on page 7 of this document.

Please amend the application as follows:

Application Serial No. 10/669,711

Attorney Docket No. 088473-0148

**AMENDMENTS TO THE CLAIMS**

This listing of claims replaces all prior versions, and listings, of claims in the application:

1. (Currently Amended): A control apparatus for an automotive vehicle, comprising:

a continuously variable transmission associated with a vehicular engine, including a belt that transmits a revolution of a primary pulley to a secondary pulley, and that is enabled to make a gear shift by modifying a pulley ratio between the primary and secondary pulleys with a hydraulic;

a belt slip determining section that determines when the vehicle is moving, if a slip of the belt between at least one of the primary and the secondary pulleys ~~occurs~~ when the vehicle is moving; and the belt occurs; and

an output section that outputs a signal to command an engine control unit to increase an engine idling speed by a predetermined engine speed when the vehicle stops moving, wherein the output section outputs the signal when the belt slip determining section determines that the slip therebetween occurs.

2. (Canceled).

Application Serial No. 10/669,711

Attorney Docket No. 088473-0148

3. (Previously Presented): A control apparatus for an automotive vehicle as claimed in claim 1, wherein the vehicle further comprises:

an oil pump to be driven by means of the engine;

an original hydraulic supplying section that supplies an original hydraulic for a control hydraulic that controls the pulley ratio with the oil pump as a hydraulic source;

a gear shift actuator that supplies the control hydraulic to each pulley;

a gear shift controlling section that outputs a control command to the gear shift actuator; and

an original hydraulic determining section that determines whether a pressure of the original hydraulic of the original pressure supplying section is equal to or below a predetermined hydraulic pressure value;

wherein the gear shift controlling section outputs the control command to command the engine control unit to increase the engine idling speed by the predetermined engine speed when the original pressure during the vehicle stop is determined to be equal to or below the predetermined hydraulic pressure value by the original hydraulic determining section.

4. (Original): A control apparatus for an automotive vehicle as claimed in claim 3, wherein the gear shift controlling section outputs a signal indicating a demand on an output torque upper limit value to the engine control unit when outputting the signal to command the engine control unit to increase the engine idling speed by the predetermined engine speed.

Application Serial No. 10/669,711

Attorney Docket No. 088473-0148

5. (Previously Presented): A control apparatus for an automotive vehicle comprising:

a continuously variable transmission associated with a vehicular engine, including a belt that transmits a revolution of a primary pulley to a secondary pulley, and that is enabled to make a gear shift by modifying a pulley ratio between the primary and secondary pulleys with a hydraulic;

a belt slip determining section that determines if a slip of the belt between at least one of the primary and the secondary pulleys occurs; and

an output section that outputs a signal to command an engine control unit to increase an engine speed by a predetermined engine speed when the belt slip determining section determines that the slip therebetween occurs,

wherein the belt slip determining section comprises:

an engine speed determining section that determines whether the engine speed  $N_e$  is larger than a first predetermined engine speed  $N_{e1}$ ;

a secondary pulley cylinder hydraulic determining section that determines if a difference ( $P^*_{sec} - P_1$ ) between a target secondary pulley hydraulic  $P^*_{sec}$  and a first set hydraulic  $P_1$  is larger than a second set hydraulic  $P_0$  when the engine speed  $N_e$  is higher than the first predetermined engine speed  $N_{e1}$ ;

a setting value setting section that sets a setting value  $P_{min}$  to determine if a deviation between the target cylinder secondary hydraulic  $P^*_{sec}$  and actual secondary pulley hydraulic  $P_{sec}$  is too large;

a first secondary pulley hydraulic determining section that determines whether a difference ( $P^*_{sec} - P_{sec}$ ) between the target secondary pulley hydraulic  $P^*_{sec}$  and actual secondary pulley hydraulic  $P_{sec}$  is larger than the setting value  $P_{min}$ ;

a second secondary pulley hydraulic determining section that determines whether the second secondary pulley hydraulic is smaller than a first set hydraulic ( $P_1$ ) when the difference between the target secondary pulley hydraulic  $P^*_{sec} - P_{sec}$  is larger than the setting value  $P_{min}$ ; and

a pulley ratio determining section that determines whether a ratio of revolution speeds between the primary pulley and secondary pulley is larger than a predetermined gear ratio  $G_0$  when  $P_{sec}$  is smaller than first set hydraulic  $P_1$ , and

wherein the belt slip determining section determines that the belt slip occurs when the ratio of the revolution speed is larger than the predetermined gear ratio.



Application Serial No. 10/669,711

Attorney Docket No. 088473-0148

6. (Previously Presented): A control apparatus for an automotive vehicle as claimed in claim 5, wherein the output section comprises an overdrive determining section that determines whether an overdrive ratio occurs and the output section outputs different values of torque limitation demand values  $T_1$  and  $T_2$  depending on whether the overdrive ratio occurs.

7. (Original): A control apparatus for an automotive vehicle as claimed in claim 6, wherein the output section outputs one of the torque limitation demand values  $T_1$  and  $T_2$  in which  $T_1 > T_2$  depending on whether the overdrive occurs.

8. (Original): A control apparatus for an automotive vehicle as claimed in claim 7, wherein after the output section outputs the engine speed increase demand signal to the engine control unit and, then, outputs a fuel cut-off recovery engine speed increase signal to the engine control unit and, when, during the deceleration, the engine speed is increased.

9. (Previously Presented): A control apparatus for an automotive vehicle as claimed in claim 8, wherein the belt slip determining section determines whether the vehicle is stopped and determines whether a line pressure is larger than a predetermined line pressure when the vehicle is determined to be stopped to determine whether the belt slip occurs.

10. (Canceled):

11. (Currently Amended): A control method for an automotive vehicle, the vehicle comprising: a continuously variable transmission associated with an engine and including a belt that transmits a revolution of a primary pulley to a secondary pulley that is enabled to make a gear shift by modifying a pulley ratio between the primary and secondary pulleys with a hydraulic, and the method comprising the steps of:

ascertaining whether the vehicle is moving; and

if the vehicle is moving:

(a) determining if a belt slip between at least one of the primary and the secondary pulleys and the belt occurs; and

(b) if belt slip occurs, outputting a signal to command an engine control unit to increase an engine idling speed by a predetermined engine speed when the vehicle stops moving.

Application Serial No. 10/669,711

Attorney Docket No. 088473-0148

12. (Previously Presented): A control apparatus for an automotive vehicle, comprising:

- an engine control unit;
- an oil pump, which serves as a hydraulic source, driven by an engine;
- a continuously variable transmission associated with the vehicular engine, the continuously variable transmission comprising:
  - a primary pulley;
  - a secondary pulley; and
  - a belt that transmits a revolution of the primary pulley to the secondary pulley, wherein the belt is enabled to make a gear shift by modifying a pulley ratio between the primary and secondary pulleys with the hydraulic;
- a hydraulic supplying section that supplies an original hydraulic and a control hydraulic to the primary and secondary pulleys to control the pulley ratio;
- an original hydraulic detecting section that detects a hydraulic pressure of the original hydraulic;
- a hydraulic pressure determining section that is configured to determine whether a pressure of the original hydraulic of the hydraulic supplying section is equal to or below a predetermined hydraulic pressure when an engine idling is carried out during a vehicular stop on the basis of the hydraulic pressure of the original hydraulic detected by the original hydraulic detecting section; and
- an output section that outputs a signal to command the engine control unit to increase the engine idling speed by a predetermined engine speed.

Application Serial No. 10/669,711

Attorney Docket No. 088473-0148

**REMARKS**

Applicants request favorable reconsideration of this application in view of the foregoing amendments and the following remarks. Of claims 1, 3-9, 11, and 12 that were pending in the application, claims 1, 3, 4, and 11 were rejected in the Office Action. Applicants greatly appreciate the allowance of claims 5-9 and 12. By way of this Amendment, Applicants have amended claims 1 and 11. Therefore, claims 1, 3-9, 11, and 12 remain pending for further consideration.

**1. Rejection of Claims 1, 3, 4, and 11 under 35 U.S.C. § 103(a)**

The Examiner rejected claims 1, 3, 4, and 11 under 35 U.S.C. § 103(a) as allegedly being obvious in view of U.S. Patent No. 5,199,399 ("Shibuya"). For at least the following reasons, Applicants respectfully traverse this rejection.

As amended, claim 1 (*i.e.*, the claim from which claims 3 and 4 depend) recites a control apparatus for an automotive vehicle. This control apparatus includes, among other possible things (*italic and underline emphasis added*):

- a continuously variable transmission associated with a vehicular engine, including a belt that transmits a revolution of a primary pulley to a secondary pulley, and that is enabled to make a gear shift by modifying a pulley ratio between the primary and secondary pulleys with a hydraulic;
- a belt slip determining section that determines, when the vehicle is moving, if a slip of the belt between at least one of the primary and the secondary pulleys and the belt occurs; and*
- an output section that outputs a signal to command an engine control unit to increase an engine idling speed by a predetermined engine speed when the vehicle stops moving, wherein the output section outputs the signal when the belt slip determining section determines that the slip therebetween occurs.*

Similarly, claim 11 recites a control method for an automotive vehicle, which includes, among other possible things: "a continuously variable transmission associated with an engine and including a belt that transmits a revolution of a primary pulley to a secondary pulley that is enabled to make a gear shift by modifying a pulley ratio between the primary and secondary pulleys with a hydraulic." This control method includes, among other possible steps (*italic and underline emphasis added*):

- ascertaining whether the vehicle is moving; and
- if the vehicle is moving:*
  - (a) determining if a belt slip between at least one of the primary and the secondary pulleys and the belt occurs; and

Application Serial No. 10/669,711

Attorney Docket No. 088473-0148

*(b) if belt slip occurs, outputting a signal to command an engine control unit to increase an engine idling speed by a predetermined engine speed when the vehicle stops moving.*

For at least the following reasons Shibuya fails to teach or suggest the control apparatus recited in claim 1 or the control method recited in claim 11.

In rejecting claims 1, 3, 4, and 11, the Examiner admits that Shibuya fails to teach increasing the engine idling speed “when the vehicle stops moving.” See Office Action at p. 5. The Examiner asserts, however, that Shibuya suggests such a function by stating:

It would have been obvious to one of ordinary skill in the art at the time [of] this invention to modify Shibuya such that the engine control unit 30 would continue to perform the determining and preventing of the belt slip phenomenon during engine idle operation, by increasing the engine idling speed to a predetermined idling speed, while the vehicle is stationary, in order to provide a sufficient tension of the belt as well as to improve the durability of the belt (i.e., column 6, lines 28-31).

See *id.* Applicants respectfully disagree. The passage cited by the Examiner is directed towards Shibuya’s goal of preventing belt slip. The passage does not provide motivation to one of ordinary skill in the art to correct a belt slip, which is detected when a vehicle is moving, when the vehicle stops moving, as recited in claims 1 and 11. Moreover, even assuming, *arguendo*, that one of ordinary skill in the art would be motivated “to perform the determining and preventing of the belt slip phenomenon during engine idle operation,” this is not what is recited in claims 1 and 11. Rather, although claims 1 and 11 recite that the correction of the belt split occurs when the vehicle stops (i.e., during engine idle operation), the claims also recite that the determination of belt slip occurs while the vehicle is moving (i.e., not during engine idle operation). For at least these reasons, Applicants respectfully disagree with the Examiner’s statement of motivation.

In addition to the foregoing, Applicants also note that the Examiner asserts that Shibuya teaches that:

the output section outputs the signal to command the engine control unit to increase an engine speed by the *inherently* predetermined engine speed when the belt slip determining section determines that the slip therebetween occurs and when the vehicle is moving (i.e., column 5, line 14 – column 6, line 66; column 7, lines 10-26)[.]

See Office Action at p. 4 (italic emphasis added). With all due respect, Shibuya teaches increasing the engine speed to prevent belt slip. See, e.g., Shibuya at col. 6, lines 61-66. Shibuya, however, neither expressly nor inherently teaches or suggests that the degree to which the engine speed is increased is “predetermined.” Rather, Shibuya teaches that the engine speed is sufficiently increased to prevent the belt slip and that the degree of the

Application Serial No. 10/669,711

Attorney Docket No. 088473-0148

increase is apparently based on the situation at hand, *i.e.*, the degree of increase is not predetermined. As a result, Shibuya fails to teach or suggest this limitation of claims 1 and 11. Further, in light of this failure of Shibuya to teach or suggest this limitation of claim 1, Shibuya also fails to teach or suggest the further limitation recited in claim 3, *i.e.*, that the engine control unit increases "the engine idling speed by the predetermined engine speed when the original pressure during the vehicle stop is determined to be equal to or below the predetermined hydraulic pressure value by the original hydraulic determining section."

In light of the foregoing arguments, it is clear that Shibuya fails to teach or suggest at least the above-italicized each of the limitations of claims 1 and 11. As a result, Shibuya can not be used to reject claims 1 and 11, or any claim dependent thereon, under 35 U.S.C. § 103(a). Moreover, as claims 3 and 4 depend from claim 1, each of these dependent claims is also allowable over Shibuya, without regard to the other patentable limitations recited therein. Accordingly, Applicants respectfully request a withdrawal of the rejection of claims 1, 3, 4, and 11 under § 103(a).

## 2. Conclusion

For the aforementioned reasons, claims 1, 3-9, 11, and 12 are now in condition for allowance. A Notice of Allowance at an early date is respectfully requested. The Examiner is invited to contact the undersigned if such communication would expedite the prosecution of the application.

Respectfully submitted,

**DRAFT**

Date \_\_\_\_\_

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**DRAFT**

By \_\_\_\_\_

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Attorneys for Applicant

THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE ANY ADDITIONAL FEES WHICH MAY BE REQUIRED REGARDING THIS APPLICATION UNDER 37 C.F.R. §§ 1.16-1.17, OR CREDIT ANY OVERPAYMENT, TO DEPOSIT ACCOUNT NO. 19-0741. SHOULD NO PROPER PAYMENT BE ENCLOSED HERewith, AS BY A CHECK BEING IN THE WRONG AMOUNT, UNSIGNED, POST-DATED, OTHERWISE IMPROPER OR INFORMAL OR EVEN ENTIRELY MISSING, THE COMMISSIONER IS AUTHORIZED TO CHARGE THE UNPAID AMOUNT TO DEPOSIT ACCOUNT NO. 19-0741. IF ANY EXTENSIONS OF TIME ARE NEEDED FOR TIMELY ACCEPTANCE OF PAPERS SUBMITTED HERewith, APPLICANT HEREBY PETITIONS FOR SUCH EXTENSION UNDER 37 C.F.R. § 1.136 AND AUTHORIZES PAYMENT OF ANY SUCH EXTENSIONS FEES TO DEPOSIT ACCOUNT NO. 19-0741.